

3 **AN ORDINANCE** approving PROFESSIONAL
4 SERVICES AGREEMENT – BLUFFTON RD-ST.
5 MARY’S RIVERBANK RESILIENCE PROJECT -
6 WORK ORDER #0518P – NOT TO EXCEED
7 \$750,538.00 between CHRISTOPHER B. BURKE
8 ENGINEERING, LLC and the City of Fort Wayne,
9 Indiana, by and through its Board of Public Works.

10 **NOW, THEREFORE, BE IT ORDAINED BY THE COMMON
11 COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

12 **SECTION 1.** That the PROFESSIONAL SERVICES AGREEMENT -
13 BLUFFTON RD-ST. MARY’S RIVERBANK RESILIENCE PROJECT - WORK
14 ORDER #0518P – between CHRISTOPHER B. BURKE ENGINEERING, LLC and
15 the City of Fort Wayne, Indiana, by and through its Board of Public Works, is
16 hereby ratified, and affirmed and approved in all respects, respectfully for:

17 All labor, insurance, material, equipment, tools, power, transportation,
18 miscellaneous equipment, etc., necessary TO IMPROVE APPROXIMATELY
19 2,400 FEET OF THE WEST BANK OF THE ST. MARY'S RIVER IN THE
20 SOUTHEAST QUADRANT OF FORT WAYNE, ALLEN COUNTY, INDIANA
21 USING NATURE-BASED SOLUTIONS TO MINIMIZE FURTHER EROSION
22 THREATENING THE COLLAPSE OF BLUFFTON ROAD, AN URBAN MINOR
23 ARTERIAL AVERAGING 23,400 VEHICLES DAILY. THE RIVERBANK IN THIS
24 SECTION IS APPROXIMATELY 40 FEET TALL WITH A 1:1 SLOPE.
25 BLUFFTON RD. AND A SIDEWALK PROVIDING CONNECTION TO OVER 100
26 MILES OF PEDESTRIAN TRAILS IN FT. WAYNE SIT ON TOP OF THE BANK.
27 IN ADDITION, STORM DRAIN OUTFALLS TO THE ST. MARY'S RIVER
28 ALONG WITH ASSOCIATED APPURTENANCES THROUGH THIS SECTION
29 OF BLUFFTON ROAD HAVE BEEN IDENTIFIED FOR REPLACEMENT TO
30 MINIMIZE TOP-DOWN EROSION. REGULATORY PERMITS FROM IDNR,
IDEM, AND USACE WILL BE REQUIRED DUE TO THE LOCATION AND
ANTICIPATED IMPACTS OF THE PROJECT. THE PROJECT WILL ALSO
REQUIRE NEPA DOCUMENT PREPARATION WITH SECTION 106
COMPLIANCE. THE PROJECT WILL BE BID THROUGH THE BOARD OF
PUBLIC;

involving a cost not to exceed SEVEN HUNDRED FIFTY THOUSAND FIVE

1 HUNDRED THIRTY-EIGHT AND 00/00 DOLLARS - (\$750,538.00). A copy of said
2 Contract is on file with the Office of the City Clerk and made available for public
3 inspection, according to law.

4 **SECTION 2.** That this Ordinance shall be in full force and effect from
5 and after its passage and any and all necessary approval by the Mayor.

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9 Council Member

10 APPROVED AS TO FORM AND LEGALITY

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13 Malak Heiny, City Attorney

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PW 12.17.24

**PROFESSIONAL SERVICES AGREEMENT
DESIGN SERVICES 2024**

Bluffton Rd – St. Mary’s Riverbank Resilience Project ("PROJECT")
Work Order #0518P

This Agreement is by and between

CITY OF FORT WAYNE ("CITY")

by and through its

Board of Public Works
200 East Berry St, Suite 210
Fort Wayne, IN 46802

and

Christopher B. Burke Engineering, LLC ("ENGINEER")

PNC Center, Suite 1368 South
115 West Washington Street
Indianapolis, Indiana 46204

Who agree as follows:

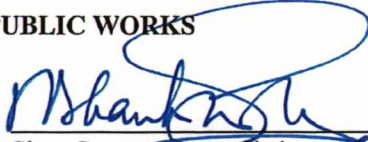
CITY hereby engages ENGINEER to perform the services set forth in Part I - Services ("SERVICES") and ENGINEER agrees to perform the SERVICES for the compensation set forth in Part III - Compensation ("COMPENSATION"). ENGINEER shall be authorized to commence the SERVICES upon execution of this Agreement and written authorization to proceed from CITY. CITY and ENGINEER agree that these signature pages, together with Parts I-IV and attachments referred to therein, constitute the entire Agreement ("AGREEMENT") between them relating to the PROJECT.

APPROVALS

APPROVED FOR CITY

BOARD OF PUBLIC WORKS

BY:


Shan Gunawardena, Chair


BY:


Kumar Menon, Member

BY:


Chris Guerrero, Member

ATTEST:


Michelle Fulk-Vondran, Clerk

DATE:

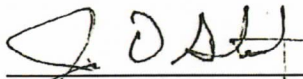
12.17.2024

APPROVED as to legality and form


APPROVED FOR ENGINEER

Christopher B. Burke Engineering, LLC

BY:


Jon D. Stolz, PE, Managing Vice President

ATTEST:


Zachary D. Bishton, Vice President of Business Operations

DATE:

December 13, 2024

PART I
SERVICES

A. GENERAL

ENGINEER shall provide the CITY professional engineering services for the PROJECT as identified in the Scope of Work. These services will include serving as CITY'S professional representative for the PROJECT, providing professional engineering consultation and advice, and furnishing civil, environmental, and other customary services incidental thereto.

B. PROJECT DESCRIPTION

The Bluffton Rd – St. Mary's Riverbank Resilience Project will improve approximately 2,400 feet of the west bank of the St. Mary's River in the southeast quadrant of Fort Wayne, Allen County, Indiana using nature-based solutions to minimize further erosion threatening the collapse of Bluffton Road, an urban minor arterial averaging 23,400 vehicles daily. The riverbank in this section is approximately 40 feet tall with a 1:1 slope. Bluffton Rd. and a sidewalk providing connection to over 100 miles of pedestrian trails in Ft. Wayne sit on top of the bank. In addition, storm drain outfalls to the St. Mary's River along with associated appurtenances through this section of Bluffton Road have been identified for replacement to minimize top-down erosion. Regulatory permits from IDNR, IDEM, and USACE will be required due to the location and anticipated impacts of the PROJECT. The PROJECT will also require NEPA Document preparation with Section 106 compliance. The project will be bid through the Board of Public Works.

C. SCOPE OF WORK

The duty of the ENGINEER is to design approved improvements, develop construction drawings, specifications and special provisions, and prepare and submit permit applications. The final construction documents shall be stamped by a Registered Professional Engineer who is licensed in the state of Indiana and employed by the ENGINEER. The ENGINEER shall develop and provide the following services:

Task 1 - Project Schedule and Review Meetings

- 1.1 Prepare project design schedule.
- 1.2 Attend a project kickoff meeting and three (3) review meetings – proposed to occur when the design drawings are approximately 30%, 60%, and 90% complete. These meetings are anticipated to be held at the CITY office.
- 1.3 Organize, schedule, attend, and facilitate an early coordination meeting with regulatory agencies at the project site, including IDNR, IDEM, and USACE, to further evaluate the permit feasibility of the project and to confirm the necessary permits.
- 1.4 Keep the minutes of the review meetings and early agency coordination meetings and distribute these minutes within seven days of the meetings.
- 1.5 Attend two (2) public outreach meetings. It is anticipated that the CITY will organize, schedule, and facilitate each meeting.
- 1.6 Provide up to 24 hours of staff time for FHWA PROTECT grant coordination.

Task 2 – Data Collection and Field Survey

- 2.1 Research CITY documents for existing mapping, utility information, as-built drawings, information management system and other pertinent data.
- 2.2 Identify major utilities and their apparent location from Utility maps.
- 2.3 Check conflicts with any other proposed projects in the immediate area.
- 2.4 Contact all utility companies and have the underground utilities field marked along the selected route. (Coordinate with Indiana 811.)
- 2.5 Complete a field topographic survey:
 - Along Bluffton Road including roadway geometry, utilities, and planimetric features in support of the storm drain outfall improvements.
 - Along the west bank of the St. Mary's River between Indian Village Park and Engle Road in support of the riverbank improvements. It is anticipated that previously collected cross section data provided by the CITY will be supplemented along the west bank in sufficient detail to generate contours at 1-foot internals.
 - In river at the location of the existing riffle to identify the extents of the natural feature in support of anticipated modifications for improved water flow and water quality.
- 2.6 Develop a property base map of the PROJECT using current deeds of record, highway plans, recorded easements, subdivision plats, county surveyor records, and historical survey documents to confirm no additional right-of-way is required.
- 2.7 Establish a minimum of four (4) horizontal and vertical benchmarks in the proximity of the PROJECT to be used during construction.
- 2.8 Conduct a subsurface exploration consisting of drilling eight (8) soil test borings along Bluffton Road on the west bank of the St. Mary's River, performing laboratory tests, and completing stability analyses of existing and proposed embankments. Laboratory testing will also include grain size distribution of river sediment samples collected in support of scour analysis and in-stream structure design.
- 2.9 Conduct wetland delineation and ordinary high water mark determination along PROJECT limits in accordance with USACE *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Midwest Region*.
- 2.10 Perform a site visit to observe current conditions, potential site access or other design and construction constraints, and field check the topographic survey data.
- 2.11 Complete Section 106 documentation services:
 - Perform a cultural resources desktop review of the PROJECT to document previously recorded cultural resources.
 - Complete a Phase 1a survey to examine areas impacted by the PROJECT and determine if archaeological resources are present. If archaeological resources are identified, a site assessment will be performed.
 - Conduct a Historic Property Survey to inventory and analyze new and previously identified historic architectural resources.

- 2.12 Collect additional cross sections along the west riverbank for IDNR permitting.

Task 3 - Preliminary Design

- 3.1 Prepare existing site drawings. (See Transportation Engineering Services, Drafting Standards)
- 3.2 Provide a utility location plan indicating apparent conflict areas.
- 3.3 Address apparent utility conflicts.
- 3.4 Compile additional data as needed.
- 3.5 Determine the final location of the proposed improvements, any permanent or temporary right-of-way or easement requirements.
- 3.6 Select construction materials and products to be used on this project.
- 3.7 Develop two-dimensional HEC-RAS modeling to determine more detailed velocity information as well as to identify potential flow issues. A range of flow conditions from approximately normal flow up to the 100-year discharge will be modeled.
- 3.8 Perform storm sewer calculations along Bluffton Road to analyze and support consolidation of the existing drain outfalls to the St. Mary's River. Identify roadway impacts associated with storm drain outfall improvements.
- 3.9 Evaluate riverbank improvements and quantity, type, and location of in-stream structures based on results from the data collection tasks as well as model results.
- 3.10 Prepare preliminary design drawings to incorporate storm drain, riverbank, and in-stream structure improvements. The drawings will generally include:
 - Title Sheet
 - Project Information Sheet
 - Topographic Survey and Base Map
 - Maintenance of Traffic Plan
 - Demolition Plan
 - Site Improvement Plan
 - Storm Sewer Plan and Profiles
 - Riverbank and In-Stream Structure Details
 - Cross Sections
 - Miscellaneous Details
 - Erosion and Sediment Control Plan and Details
- 3.11 Prepare outline of specifications or reference standard specifications to supplement CITY standards. It is anticipated that INDOT standard specifications will be used and supplemented with CITY standard specifications.
- 3.12 Prepare estimate of quantities and estimate of construction costs.
- 3.13 Identify required permits for completion of Project. Anticipated permits include:
 - IDEM Section 401 (Individual Permit)

- USACE Section 404 (Nationwide Permit No. 27 or 13)
 - IDNR Construction in a Floodway Permit
 - IDEM Construction Stormwater General Permit
 - Local Drainage/Floodplain Development Permit
- 3.14 Prepare an environmental study document that meets the guidelines of the National Environmental Policy Act (NEPA) for the PROJECT and submittal to the appropriate reviewing agency. The NEPA process will include, but not necessarily limited to, review of available reference material for the site, site investigations to confirm the reference material and to photograph and note potential hazardous waste sites, karst features, wetland/“Waters” areas, potential historic structures, natural features, and other resources along with early coordination and public notice.
- 3.15 Submit preliminary design drawings, outline of specifications, and project quantities with estimated construction costs to CITY for review and approval.
- 3.16 Upon approval of preliminary design drawings, submit one copy for “routings” along with a list of projected affected entities. CITY to perform routings and turn over to consultant to summarize routing comments for CITY review.

Task 4 - Final Design

- 4.1 Prepare specifications using INDOT standard specifications and supplementing with CITY standard specifications in MF04 format for the improvements, including special provisions and necessary details to supplement CITY standards and itemized bid form. Bidding and contract front-end documents are anticipated to be prepared by CITY.
- 4.2 Prepare final design drawings. Incorporate comments received during the review meetings and routings.
- 4.3 Update summary of project quantities and estimate of construction costs.
- 4.4 Submit draft final design drawings, specifications, itemized bid form, and project quantities with estimated construction costs to CITY for review and approval.
- 4.5 Upon approval of Final Design drawings and project specifications, prepare and submit one (1) set of stamped plans, itemized bid form, special provisions, and itemized engineer’s estimate and one (1) electronic version of the project drawings and documents.

Task 5 - Permitting

- 5.1 Prepare and submit Section 401 and Section 404 permit applications, required exhibits, data, and documentation to IDEM and USACE, respectively, for the anticipated impacts of the PROJECT.
- 5.2 Prepare and submit an application for Construction in a Floodway Permit to IDNR. Supporting documentation, modeling, and proof of public notice to adjacent landowners will be included in the submittal.
- 5.3 Prepare and submit the design drawings to the appropriate reviewing agency to obtain a Construction Stormwater General Permit and complete the required public notice. Once approval has been obtained and the public notice has been completed, a notice of intent will be submitted to IDEM.

- 5.4 Due to the anticipated impacts resulting from the modeling updates and the proposed PROJECT, a Conditional Letter of Map Revision (CLOMR) will be submitted to IDNR and FEMA along with required supporting documentation for pre-construction approval. Following the construction of the proposed improvements, the modeling will be updated with as-built topography provided by the Contractor and then submitted to IDNR and FEMA as a Letter of Map Revision (LOMR).
- 5.5 Coordinate with regulatory agencies throughout the permitting process to respond to questions, and track progress of the application review.

Task 6 - Bidding

- 6.1 Attend pre-bid meeting. It is anticipated that the CITY will advertise and facilitate the meeting.
- 6.2 Respond to questions from bidders and manufacturer representatives during bidding as requested by CITY. Responses requiring additional information or clarification not found within the bid documents shall ONLY be addressed by addendum.
- 6.3 Prepare addenda documents, as needed to interpret, clarify, or expand bid documents. CITY to issue addenda.
- 6.4 Review bids and make recommendation regarding construction contract award to the CITY.
- 6.5 Prepare and submit to CITY Contract Document Drawings and specifications incorporating revisions from all issued addenda after execution of the construction contract. These "Conformed to Contract" (CTC) set of Contract Drawings and specifications will contain revisions that incorporate specific changes made by addenda and accepted bid proposal. CTC project drawings will be submitted in both PDF and DWG file format. CTC project specifications will be submitted in Microsoft Word.

Task 7 – Construction Related Services

- 7.1 Attend pre-construction, substantial completion, and final completion conferences. It is anticipated that the Construction Contract Manager will organize, schedule, and facilitate all conferences.
- 7.2 Perform site visits to assist Program Manager in resolution of design or construction problems.
- 7.3 Provide clarifications and interpretations of the Contract Documents as requested by the Construction Contract Manager.
- 7.4 Review and respond to submittals as requested by the Construction Contract Manager.
- 7.5 Review record documents provided by the Contractor including field markups showing changes made during construction as well as an as-built topographic survey. Completed record documents will be submitted to the CITY and IDNR as a condition of the Construction in a Floodway Permit.

D. SCHEDULE

The project is anticipated to be completed per attached design schedule. This anticipated schedule is based on receiving a Notice to Proceed by February 1, 2025 and receiving prompt review and approvals from CITY. Please note that due to the site investigations and data collection requirements of the PROJECT, significant weather delays may occur. Further, delays in reaching certain milestones may be the result of meeting coordination and holidays. A revised schedule will be provided to CITY if delays occur. Bidding and construction related services schedules are contingent upon NEPA and permit approvals.

<u>ACTIVITY</u>	<u>DATE or DAYS</u>
Data Collection and Field Survey	June 1, 2025
Preliminary Design Documents (Excludes NEPA documentation)	September 1, 2025
Final Design Documents	December 1, 2025
Permit Application Submittals	March 1, 2026

E. OPTIONAL ADDITIONAL SERVICES

CONTINGENCY TASKS (but not specifically limited to):

Contingency Items are authorized by the Program Manager and shall have prior approval of fees prior to commencement.

- Attend additional meetings to review and discuss project status.
- Perform right-of-way engineering services including research, coordination, plan preparation, legal descriptions, appraising, buying, and related services.
- Prepare and coordinate an environmental mitigation plan.
- Prepare a memorandum of agreement between the lead federal agency, State Historic Preservation Office, and other stakeholders as necessary that specifies the measures for avoiding, minimizing, and/or mitigating adverse effects on historic properties.
- Perform Phase I or Phase II Environmental Site Assessments.
- Perform Phase II or Phase III Archaeological Investigations.
- Prepare an application and coordinate an Individual Section 404 Permit.
- Provide additional FHWA PROTECT grant coordination.
- Attend additional public outreach meetings.
- Coordinate bid advertisement and distribute bidding documents.
- Perform additional site visits to review construction progress.
- Complete an as-built topographic survey for CITY records, permit closeout, and LOMR submittal.

PART II

CITY'S RESPONSIBILITIES

City shall, at its expense, do the following in a timely manner so as not to delay the SERVICES:

A. INFORMATION REPORTS/CITY UTILITY MAPS/AERIAL MAPS/CONTOUR MAPS

Make available to ENGINEER reports, studies, regulatory decisions, and similar information relating to the SERVICES that ENGINEER may rely upon without independent verification unless specifically identified as requiring such verification.

Provide ENGINEER with a maximum of two copies each of existing CITY utility maps, aerial maps and contour maps that are readily available in the City-County Building.

B. REPRESENTATIVE

Designate a representative for the project who shall have the authority to transmit instructions, receive information, interpret and define CITY'S requirements and make decisions with respect to the SERVICES. The CITY representative for this AGREEMENT will be Patrick Zaharako, City Engineer.

C. DECISIONS

Provide all criteria and full information as to CITY'S requirements for the SERVICES and make timely decisions on matters relating to the SERVICES.

PART III
COMPENSATION

A. COMPENSATION

Compensation for services performed in accordance with Part I – SERVICES of this Agreement will be based on hours actually spent and expenses actually incurred with a not-to-exceed engineering fee of \$750,538 as summarized in attached Attachment 1.

ENGINEER's costs will be based on the hours incurred to complete the project times the hourly rates of the various personnel, per Attachment 2 – Hourly Rate Schedule. All Reimbursable costs incurred for the project will be invoiced at cost plus 10 percent to cover administrative costs.

Payment for outside consulting and/or professional services such as Geotechnical, Registered Land Surveyor for easement preparation, or Legal Services performed by a Subconsultant at actual cost to ENGINEER plus 10 percent for administrative costs. The ENGINEER will obtain written CITY approval before authorizing these services.

B. BILLING AND PAYMENT

1. Timing/Format

- a. ENGINEER shall invoice CITY monthly for SERVICES completed at the time of billing. Such invoices shall be prepared in a form and supported by documentation as CITY may reasonably require.
- b. CITY shall pay ENGINEER within 30 days of receipt of approved invoice.

2. Billing Records

ENGINEER shall maintain accounting records of its costs in accordance with generally accepted accounting practices. Access to such records will be provided during normal business hours with reasonable notice during the term of this Agreement and for three years after completion.

PART IV
STANDARD TERMS AND CONDITIONS

1. **STANDARD OF CARE.** Services shall be performed in accordance with the standard of professional practice ordinarily exercised by the applicable profession at the time and within the locality where the services are performed. No warranty or guarantee, express or implied, are provided, including warranties or guarantees contained in any uniform commercial code.

2. **CHANGE OF SCOPE.** The scope of services set forth in this Agreement is based on facts known at the time of execution of this Agreement, including, if applicable, information supplied by ENGINEER and CITY. ENGINEER will promptly notify CITY of any perceived changes of scope in writing and the parties shall negotiate modifications to this Agreement.

3. **SAFETY.** ENGINEER shall establish and maintain programs and procedures for the safety of its employees. ENGINEER specifically disclaims any authority or responsibility for general job site safety and safety of persons other than ENGINEER employees.

4. **DELAYS.** If events beyond the control of ENGINEER, including, but not limited to, fire, flood, explosion, riot, strike, war, process shutdown, act of God or a public enemy, and act or regulation of any government agency, result in delay to any schedule established in this Agreement, such schedule shall be extended for a period equal to the delay. In the event such delay exceeds 90 days, ENGINEER will be entitled to an equitable adjustment in compensation.

5. **TERMINATION/SUSPENSION.** Either party may terminate this Agreement upon 30 days written notice to the other party in the event of substantial failure by the other party to perform in accordance with its obligations under this Agreement through no fault of the terminating party. CITY shall pay ENGINEER for all Services, including profit relating thereto, rendered prior to termination, plus any expenses of termination.

ENGINEER or CITY, for purposes of convenience, may at any time by written notice terminate the services under this Agreement. In the event of such termination, ENGINEER shall be paid for all authorized services rendered prior to termination including reasonable profit and expenses relating thereto.

6. **REUSE OF PROJECT DELIVERABLES.** Reuse of any documents or other deliverables, including electronic media, pertaining to the Project by CITY for any purpose other than that for which such documents or deliverables were originally prepared, or alteration of such documents or deliverables without written verification or adaptation by ENGINEER for the specific purpose intended, shall be at CITY's sole risk.

7. **OPINIONS OF CONSTRUCTION COST.** Any opinion of construction costs prepared by ENGINEER is supplied for the general guidance of the CITY only. Since ENGINEER has no control over competitive bidding or market conditions, ENGINEER cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to CITY.

8. **RELATIONSHIP WITH CONTRACTORS.** ENGINEER shall serve as CITY's professional representative for the Services, and may make recommendations to CITY concerning actions relating to CITY's contractors, but ENGINEER specifically disclaims any authority to direct or supervise the means, methods, techniques, sequences or procedures of construction selected by CITY's contractors.

9. **MODIFICATION.** This Agreement, upon execution by both parties hereto, can be modified only by a written instrument signed by both parties.

10. **PROPRIETARY INFORMATION.** Information relating to the Project, unless in the public domain, shall be kept confidential by

ENGINEER and shall not be made available to third parties without written consent of CITY.

11. **INSURANCE.** ENGINEER will maintain insurance coverage for Professional, Comprehensive General, Automobile, Worker's Compensation and Employer's Liability in amounts in accordance with legal, and ENGINEER business, requirements. Certificates evidencing such coverage will be provided to CITY upon request. For projects involving construction, CITY agrees to require its construction contractor, if any, to include ENGINEER as an additional insured on its policies relating to the Project. ENGINEER coverages referenced above shall, in such case, be excess over contractor's primary coverage.

12. **INDEMNITIES.** To the fullest extent permitted by law, ENGINEER shall indemnify and save harmless the City from and against loss, liability, and damages sustained by CITY, its agents, employees, and representatives by reason of injury or death to persons or damage to tangible property to the extent caused directly by the negligent errors or omissions of ENGINEER, its agents or employees.

13. **LIMITATIONS OF LIABILITY.** No employee or agent of ENGINEER shall have individual liability to CITY. CITY agrees that, to the fullest extent permitted by law, ENGINEER's total liability to CITY for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any causes including, but not limited to, ENGINEER's negligence, error, omissions, strict liability, or breach of contract shall not exceed the total compensation received by ENGINEER under this Agreement except for personal injury or property damage which shall be limited to the extent of ENGINEER insurance coverage (minimum \$700,000 for a single claim and \$5,000,000 for all claims in an occurrence). If CITY desires a limit of liability greater than that provided above, CITY and ENGINEER shall include in this Agreement the amount of such limit and the additional compensation to be paid to ENGINEER for assumption of such additional risk.

14. **ASSIGNMENT.** The rights and obligations of this Agreement cannot be assigned by either party without written permission of the other party. This Agreement shall be binding upon and insure to the benefit of any permitted assigns.

15. **ACCESS.** CITY shall provide ENGINEER safe access to any premises necessary for ENGINEER to provide the Services.

16. **PREVAILING PARTY LITIGATION COSTS.** In the event any actions are brought to enforce this Agreement, the prevailing party shall be entitled to collect its litigation costs from the other party.

17. **NO WAIVER.** No waiver by either party of any default by the other party in the performance of any particular section of this Agreement shall invalidate another section of this Agreement or operate as a waiver of any future default, whether like or different in character.

18. **SEVERABILITY.** The various term, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.

19. **AUTHORITY.** The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the part for whom they are signing.

20. **STATUTE OF LIMITATION.** To the fullest extent permitted by law, parties agree that, except for claims for indemnification, the time period for bringing claims regarding ENGINEER's performance under this Agreement shall expire one year after Project Completion.

DIGEST SHEET

Department: Transportation Engineering

Resolution Number: #0518P

Title of Ordinance: Bluffton Road - St Marys Riverbank Resilience

Amount of Contract:

\$750,538.00 Professional Services Agreement with Christopher B Burke Engineering.

Description of Project (Be Specific): The Bluffton Rd — St. Mary's Riverbank Resilience Project will improve approximately 2,400 feet of the west bank of the St. Mary's River in the southeast quadrant of Fort Wayne, Allen County, Indiana using nature-based solutions to minimize further erosion threatening the collapse of Bluffton Road, an urban minor arterial averaging 23,400 vehicles daily. The riverbank in this section is approximately 40 feet tall with a 1:1 slope. Bluffton Rd. and a sidewalk providing connection to over 100 miles of pedestrian trails in Ft. Wayne sit on top of the bank. In addition, storm drain outfalls to the St. Mary's River along with associated appurtenances through this section of Bluffton Road have been identified for replacement to minimize top-down erosion. Regulatory permits from IDNR, IDEM, and USACE will be required due to the location and anticipated impacts of the PROJECT. The PROJECT will also require NEPA Document preparation with Section 106 compliance. The project will be bid through the Board of Public Works.

What Are The Implications If Not Approved:

Failure to complete design for grant funded project.

If Prior Approval Is Being Requested, Justify: N/A

Additional Comments:

BILL NO. S-25-01-06

REPORT OF COMMITTEE ON PUBLIC WORKS
January 28, 2025

Martin Bender Chair

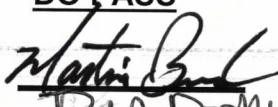
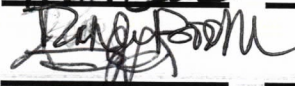




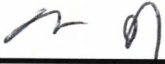


Rohli Booker Co-Chair

All Council Members

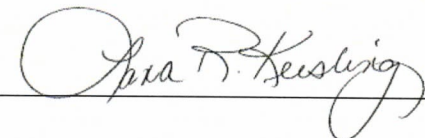
An Ordinance approving Professional Services Agreement – Bluffton Rd - St. Mary's Riverbank Resilience Project - Work Order #0518P – between Christopher B. Burke Engineering, LLC and the City of Fort Wayne, Indiana, by and through its Board of Public Works

Involving a cost not to exceed \$750,538.00

COMMITTEE ON PUBLIC WORKS HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

<u>COUNCIL MEMBER</u>	<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>
<u>BENDER</u>			
<u>BOOKER</u>			
<u>CHAMBERS</u>			
<u>ENSLEY</u>			
<u>FREISTROFFER</u>			
<u>HARTMAN</u>			
<u>JEHL</u>			
<u>MYERS</u>			
<u>PADDOCK</u>			

LANA R. KEESLING
CITY CLERK



Public Hearing Date: N/A

Read the first time in full and on motion by Councilperson Bender.

Read the second time by title and referred to the Public Works Committee.

Read the third time in full and on motion by Councilperson Bender, placed on passage by the following vote:

<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
BENDER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BOOKER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CHAMBERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HARTMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MYERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: January 28, 2025




 LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

Special Ordinance No. S-25-01-06 on the 28th day of January, 2025

ATTEST:



 LANA R. KEESLING
 CITY CLERK



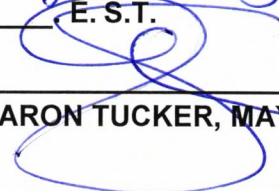
 PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 29th of January 2025, at the hour of 9:40 o'clock A.M. E.S.T.



 LANA R. KEESLING, CITY CLERK

Approved and signed by me this 29th day of January 2025, at the hour of 4:31 o'clock P.M. E.S.T.



 SHARON TUCKER, MAYOR

